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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	
Access Charge Reform	CC Docket No. 96-262
Price Cap Performance Review for Local Exchange Carriers	CC Docket No. 94-1
Transport Rate Structure and Pricing	CC Docket No. 91-213

COMMENTS OF GTE

GTE SERVICE CORPORATION,
on behalf of its affiliated
domestic telephone and interexchange
companies

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TABLE OF CONTENTS

SUMMARY

Access reform is long past due. The current framework is a Byzantine maze of regulations that micromanages rate levels and guarantees inefficient and uneconomic service pricing. The need for prompt reform is particularly imperative given the ability of new entrants to evade access charges through Section 251 interconnection options and the 1996 Act's universal service mandate to replace hidden subsidies with "explicit and sufficient" funding mechanisms.

If the Commission is to achieve the Act's vision of deregulation, competition and economically efficient service pricing, three basic actions must be taken in this proceeding. First, ILECs must be afforded the opportunity to recover embedded costs incurred pursuant to regulatory approvals, requests or requirements under the conditions in existence prior to the 1996 Act. Second, in order to ensure economically efficient and rational pricing of access services, ILECs must be permitted to immediately remove from the price of access misallocations, subsidies and anomalies attributable to past regulation. Third, in the transition to marketplace pricing, ILECs must be afforded immediate rights to pricing flexibility and, ultimately, relief from access charge and price cap constraints in their entirety. As summarized below, and documented in these comments, these actions are essential to achieving the 1996 Act's goals and the Commission's own policy objectives.

Recovery of Embedded Costs and Actual Current Expenses. The Commission must put an end to the cost recovery shell game that began in the interconnection docket and continued in the universal service Joint Board's *Recommended Decision.*

The "trilogy" of 1996 Act implementation proceedings creates grave risks to consumers by impeding the ability of ILECs* to recover costs that were incurred to implement core regulatory policies. Indeed, the use of hypothetical, forward-looking incremental costs to price network elements, determine universal service support, and set access rates would preclude GTE, from recovering legitimately incurred costs. If, in this proceeding, the Commission requires access rates to be based on forward-looking costs and fails to permit adequate recovery of the subsidies inherent in existing access rates, GTE could be precluded from recovering approximately $1.48 billion in interstate costs, including its under-recovered depreciation. Such pricing accordingly would jeopardize service quality and reliability, deter investment by CLECs and ILECs, undermine universal service, and work a massive, unconstitutional taking.

To bolster competition, pass constitutional muster, and prevent grave risks that ILECs will be unable to provide quality services to consumers, the Commission must revisit the first two "trilogy" proceedings by adopting rules that promote fair competition, allow ILECs the opportunity to recover embedded costs and actual current expenses and assure adequate universal service support. In this docket, the Commission must permit ILECs to recover the full costs of providing access (including embedded costs) in an efficient and competitively neutral manner. In addition, it must allow market forces, rather than regulation, to determine rational pricing. The proposals set forth in the NPRM are too timid and too regulatory to accomplish these objectives. If adopted, they would perpetuate intrusive oversight, prevent efficient pricing, preclude effective access

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* All abbreviations used in the summary are defined in the text.

and local competition, and perpetrate an unconstitutional taking of ILEC property. True access reform requires bolder steps, as summarized below.

Rationalization of cost recovery mechanisms. First, the Commission must establish rational mechanisms for recovering the interstate-allocated costs that underlie current access charges. There is no disagreement that the current access charge regime is riddled with implicit subsidies and inefficient rate structures that impede competition and harm consumers. To mitigate these problems, the Commission should:

Permit recovery of all common line costs on a flat, geographically deaveraged basis. Common line costs, which are non-traffic sensitive, should be recovered in full through flat charges. To this end, the Commission should eliminate the current SLC cap. If the Commission finds that this makes local exchange service not "affordable," the difference between the common line revenue requirement and SLC revenues should be recovered from the new universal service fund. As a substantially inferior alternative, ILECs should be permitted to bulk-bill IXCs for such costs as part of the regulatory policy cost recovery mechanism discussed below.

In addition, ILECs should be allowed to deaverage the SLC using the same small geographic areas used for universal service high cost support purposes. Such deaveraging is essential to recognize wide variations in the cost of local loops and avoid implicit cross-subsidies between high cost and low cost areas and be consistent with 47 U.S.C. § 254(e). Unless and until separations reform occurs, ILECs also must be able to assess the SLC (and the CCL, if it remains) on purchasers of unbundled network elements. These charges are the designated recovery mechanism for

interstate-allocated common line costs and have always been imposed regardless of the level of costs recovered from intrastate rates. Finally, ILECs should be given the flexibility to apply a single SLC to each facility used to provide derived channel services, in order to avoid uneconomic disincentives to the use of ISDN and other advanced services.

Elimination of the TIC. The TIC should be reformed in three ways. First, the Commission should reassign to other access elements costs that are more properly recovered from those elements (including all tandem switching costs, common channel signaling/signal transfer point costs allocated to tandem switching, host remote links associated with tandem-switched transport, and analog end office trunk switch ports). Second, the Commission should establish a competitively neutral mechanism for recovering (a) separations-related misallocations (including central office maintenance, central office termination counts, and interexchange cable and wire), and (b) costs resulting from discontinuance of the "equal charge" rule through the regulatory policy cost recovery mechanism. Third, tandem-switched transport should be redefined by eliminating the MOU option for serving wire center-to-tandem connections, including all multiplexing costs, and permitting ILECs to set rates for tandem-switched transport based on company-specific MOUs.

Allow competitively neutral recovery of certain regulatory policy costs. GTE has an interstate depreciation reserve deficiency of $1.6 billion resulting from regulatory mandates to employ uneconomic depreciation lives. This shortfall reflects real, legitimately incurred costs that must be recovered outside of access charges in order to

avoid a taking and assure fair competition. It should be amortized over a five-year period and recovered from all carriers interconnecting to the ILECs' networks.

The other regulatory policy costs noted above (any unrecovered common line costs, separations-related misallocations, including a portion of the TIC) and the difference between TSLRIC-based rates (if prescribed) and existing local switching rates (after implicit subsidies are removed), should be recovered through the regulatory policy cost recovery mechanism. Specifically, these costs should be recovered on a bulk-billed basis from all telecommunications carriers that purchase interstate switched access, transport, and facilities used to provide interstate services from ILECs. Such a recovery mechanism will be equitable and competitively neutral.

Importantly, if the Commission determines that some interstate-allocated costs should no longer be recovered through access charges, only a Joint Board process can require those costs to be shifted to the intrastate jurisdiction. Pending such action, it must assure that ILECs continue to have the opportunity to recover all interstate-allocated costs through a federal cost recovery mechanism. Failure to do so would result in an unconstitutional taking.

Pricing Flexibility. As the second essential aspect of access reform, ILECs must be given immediate and substantial pricing flexibility to promote efficient pricing and rational competitive entry. Such flexibility is warranted regardless of the level of local or access competition. In particular, ILECs must be given the same freedom as CLECs to offer volume and term discounts, to deaverage rates, and to provide customer-specific pricing. In addition, Section 204(a)(3) of the Communications Act and competitive

equity demand that ILECs be permitted to introduce new services without first making a public interest showing.

The Commission should also overhaul price cap regulation by (1) combining tandem switching and transport, local switching, and data base services into a single basket, (2) removing all other services from price cap regulation, (3) minimizing service band constraints, (4) doing away with the sharing and low-end adjustment mechanisms, (5) allowing the ILECs to establish an unlimited number of different geographic zones for each service category, each of which would have a ten percent annual upper banding constraint, and (6) developing a productivity factor, based on total factor productivity, that fully considers the new competitive environment, including the pricing changes resulting from this docket.

GTE strongly supports USTA's request that the following competitive services be removed from price cap regulation: special access and switched access dedicated transport, intraLATA interstate, operator surcharges and directory assistance. There is currently substantial competition for all of these services which requires the FCC to forbear from regulating these services now.

In contrast, the Commission should not adopt either of its reform proposals. The "market-based" approach is unduly regulatory and impermissibly seeks to hold ILECs to the same pricing rules that were stayed by the Eighth Circuit. Moreover, the "triggers" used to determine relief are either irrelevant to the level of competition or redundant with existing Communications Act requirements. The prescriptive approach is even more fundamentally flawed in its unwarranted and harmful regulatory intrusion into pricing decisions that should be left to the marketplace. It would undermine the

efficiency gains produced by price cap regulation and trample on ILECs' Fifth Amendment rights.

Rather than adopting the proposals in the *NPRM*, the Commission should follow GTE's blueprint for access reform. Doing so will create a market environment that will keep rates reasonable, provide ILECs the opportunity to recover their costs, and put the Commission back on track toward implementing Congress's mandate of a deregulatory, procompetitive policy framework for telecommunications while maintaining universal service goals.

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COMMENTS OF GTE

GTE Service Corporation ("GTE"), on behalf of its affiliated domestic local exchange and interexchange telephone companies, submits these comments regarding the Commission's proposals to reform its access charge rules and policies.[1] As the *NPRM* acknowledges, access reform is long past due. The current access charge framework is the product of political and industry compromises reached in a far different economic and regulatory environment. It incorporates misallocations of costs associated with intrastate services to the interstate jurisdiction, an arbitrary and inefficient rate structure, and a Byzantine system of regulation that micromanages rate levels and relationships so as to virtually guarantee inefficient pricing. The need for reform has now become critical, in light of recent actions in the interconnection and universal service proceedings that undermine the ability of incumbent local exchange

[1] Access Charge Reform, CC Docket No. 96-262, FCC 96-488 (rel. Dec. 24, 1996) ("*NPRM*").

carriers ("ILECs") to recover their actual costs, and necessary to achieve the goal of Section 254(e) of the Communications Act, which directs that all universal service funding be "explicit and sufficient."[2]

Although GTE agrees with the Commission that access reform is essential, the proposals set forth in the *NPRM* are simply too timid and too regulatory. They ignore the massive changes in the marketplace and technology that have occurred over the past several years. In addition, they essentially disregard the record compiled in CC Docket No. 94-1 and other recent proceedings, which demonstrates in a compelling fashion that detailed oversight of access pricing is inimical to robust competition and consumer welfare. If adopted, the instant proposals would perpetuate intrusive oversight so as to prevent efficient pricing, place roadblocks in the way of full and fair access and local competition, and work an unconstitutional taking of ILEC property.

True reform requires substantial deregulation to permit ILECs to price efficiently and compete effectively. True reform also necessitates establishment of a competitively neutral mechanism for recovering costs engendered by past, present, and future regulatory policies. If the Commission determines that jurisdictional separations should be re-examined to accommodate changes, a Federal-State Joint Board proceeding is required, and, in the interim, ILECs must be able to recover all costs that are currently considered interstate. GTE's specific recommendations in these respects, which are set forth herein, will promote effective and vigorous access competition while giving due consideration to ILECs' Fifth Amendment rights.

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[2] 47 U.S.C. § 254(e).

I. THE ACCESS CHARGE *NPRM* GRAPHICALLY HIGHLIGHTS THE NEED FOR THE COMMISSION TO ENGAGE IN A COMPREHENSIVE AND INTEGRATED EVALUATION OF THE 1996 TELECOMMUNICATIONS ACT IMPLEMENTATION PROCEEDINGS. (*NPRM*, ¶¶ 1-49)

As the Commission notes, the *NPRM* is "the third in a trilogy of actions that collectively are intended to foster and accelerate the introduction of efficient competition in all telecommunications markets, pursuant to the mandate of the 1996 Act."[3] Following the *First and Second Interconnection Orders*,[4] which established rules intended to implement the local competition provisions of Sections 251 and 252 of the Communications Act, and the Joint Board's *Recommended Decision* regarding implementation of the universal service provisions of Section 254 of the Act,[5] this proceeding seeks to reform the access charge system "to make it compatible with the competitive paradigm established by the 1996 Act and with state actions to open local networks to competition."[6]

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3 *NPRM*, ¶ 1.

4 Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 15499 (1996) ("*First Interconnection Order*,") *recon.*, 11 FCC Rcd 13042 (1996), *petition for review pending and partial stay granted*, Iowa Utilities Board v. FCC, No. 96-3321 (8th Cir. Oct. 15, 1996) ("*Iowa Utilities Board*"); Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Phase II, FCC 96-333 (rel. Aug. 8, 1996) ("*Second Interconnection Order*").

5 Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Recommended Decision, FCC 96J-3 (rel. Nov. 8, 1996) ("*Recommended Decision*").

6 *NPRM*, ¶ 1.

The Commission's goal is laudable. Coordinated consideration of interconnection, universal service, and access charges is essential to assure that competition develops in a manner that truly benefits consumers and respects the Fifth Amendment rights of ILECs. In reality, however, the direction taken in the interconnection and universal service proceedings leaves little confidence that comprehensive and integrated actions to achieve this goal will occur absent concerted new measures. Reciting such goals is one thing, but actually coordinating and integrating these regulatory actions has been sorely lacking in the interconnection proceeding, and yet to be determined in the universal service docket.

Of particular concern is the fact that critical cost recovery decisions are repeatedly deferred rather than confronted. At each juncture, the large interexchange carriers ("IXCs") have promoted pricing rules and policies that would force consumers and state commissions to underwrite their competitive entry into the local exchange market, and the Commission has either adopted or proposed to adopt those rules and policies. These rules substantially underestimate the market price for telecommunications services. To date, however, no attention has been given to assuring that ILECs will be permitted to recover past investments that have been requested, required or approved by federal and state regulators. Nor has attention been given to the negative effects of continued regulatory restraints placed on the ILECs in a competitive environment.

First, in the interconnection proceeding, the Commission held that unbundled network elements must be priced based on hypothetical incremental costs.[7] As GTE and numerous other parties cautioned, this approach ignores the real-world costs of providing local exchange and access services, undermines any incentive for competitors to invest in facilities or for ILECs to upgrade existing ILEC plant, and invites tremendous revenue losses that will ultimately harm consumers and competition. The Commission then compounded these problems by permitting IXCs to avoid access charges when they provide local service to a customer using re-bundled network elements. Although the Commission recognized that TELRIC-based pricing of network elements (as defined in its rules) could cause a significant reduction in ILEC revenues, it declined to address cost recovery issues in the *First Interconnection Order*.[8] And because below-cost unbundled element pricing creates a direct downward pressure on access rates that would not occur in a competitive market, this earlier decision virtually dictates that access pricing will fall to this noncompensatory level as well.

Next, in the universal service proceeding, the Joint Board recommended use of essentially the same methodology to determine the basis for universal service support.

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[7] GTE strongly disagrees with the Commission that total element long run incremental costs ("TELRIC") approximate a reasonable market price. *See* Section III.C., *infra*. No provider in a competitive market could price at TELRIC and recover sufficient costs to survive. Nonetheless, any rates ultimately negotiated or approved by states will effectively establish a price level to which ILEC access charges inexorably will fall if the ILEC hopes to compete.

[8] In paragraph 707 of the *First Interconnection Order,* the Commission stated that it would defer consideration of universal service-related residual costs to the universal service proceeding and non-universal service-related residual costs to the access reform proceeding.

Adoption of the Joint Board's recommendation would disregard the real-world outlays required to serve high cost and rural local telephone consumers and thus jeopardize recovery of legitimately incurred embedded costs[9] and actual expenses by ILECs.[10] Furthermore, the *Recommended Decision* ignored the Commission's statement in the *First Interconnection Order* that residual cost recovery issues related to universal service would be dealt with in the universal service proceeding.

Now, the Commission proposes to slash access charges to hypothetical, forward-looking incremental costs. As in the case of unbundled elements, the use of misguided or inaccurate cost estimates will drive access prices below their market levels. To its credit, the Commission recognizes that incremental cost pricing of access charges could substantially reduce interstate access revenues.[11] At the same time, however, the *NPRM* simply seeks comment on whether the ILECs should be entitled to recover this shortfall,[12] rather than evidencing a firm intent to permit recovery.

The cost recovery shell game cannot continue. The Commission must to require TELRIC-based interconnection rates exacerbates the problems that use of TELRIC

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9 Embedded costs include those costs recorded in regulated accounts and include investments for which recovery was deferred to a later period.

10 As GTE has repeatedly stressed, the models currently available to estimate universal service costs do not accurately reflect the nature of these costs and under estimate the market price of basic local service. *See* Comments of GTE, CC Docket No. 96-45 (filed Dec. 19, 1996) ("*GTE 96-45 Comments*"); Reply Comments of GTE, CC Docket No. 96-45 (filed Jan. 10, 1997).

11 *See NPRM,* ¶¶ 249-255.

12 *Id.,* ¶ 256.

acknowledge in this proceeding that the trilogy of implementation proceedings creates grave risks to consumers by impeding the ability of ILECs to recover costs that were incurred pursuant to requests, approvals or requirements of federal and state regulators in order to advance universal service and implement other core public interest policies. GTE estimates it will lose approximately $500 million annually if it moves from today's switched access rates to the FCC's proposed prices.[13] Instead of governmentally prescribed rates, the Commission should forbear from regulating access charges and permit the ILECs, such as GTE, to price according to the market. Competition will then determine whether the ILECs will recover their costs from carriers, end users, or whether they increase efficiencies. Appropriate signals will be sent to present and potential competitors by market pricing. If they price access too high, competitors will build facilities to compete for access. If they place too much of the cost on the end user, competitors will build facilities to compete in the local market. In either event, the market will determine the outcome, rather than through bureaucratic edict, and consumers and competition will benefit.

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[13] *See* Affidavit of Orville D. Fulp (Exhibit A) ("Fulp FCC Affidavit"). This assumes that the present recovery of residual non-traffic sensitive ("NTS") costs will be accomplished by increasing the subscriber line charge ("SLC"), bulk billing carriers, or using a universal service mechanism. It further assumes that the transport interconnection charge ("TIC") will be eliminated by incorporating appropriate elements of that charge into the switching elements or a universal service mechanism. If this requirement is not to be recovered from the IXCs, then the FCC can look to only one source for recovery other than the end user customer, the universal service fund. GTE has computed access rates at TELRIC plus a ten percent allocation of common costs for the purpose of arriving at a number for comparison with its present revenue stream. GTE opposes pricing rates at TELRIC and would not support the use of any allocation of common costs that does not reflect an appropriate allocation. A ten percent allocation is not appropriate, but is used for illustrative purposes only.

The Commission must also recognize and deal with the historical consequences of its own statutory requirements and rules, particularly those imposing a uniform system of accounts, separations between state and interstate jurisdictions, access charge cost allocations, and price cap indices (which originally were based on a prescribed rate of return and a rate base and expenses derived in part from that accounting system and separations procedure). To minimize these risks and avoid unconstitutional takings, the Commission must affirmatively address cost recovery issues in this proceeding. GTE's recommended mechanism for recovering regulatory policy costs is detailed in Section IV, below. This mechanism would assure ILECs the opportunity to recover on a competitively neutral basis (1) costs under-recovered in past periods because of FCC-prescribed depreciation rates, (2) misallocations of costs to the interstate jurisdiction (including the remaining unreallocated portion of the TIC), (3) any carrier common line costs not recovered through subscriber line charges or the universal service fund ("USF"), and (4) the difference between existing local switching rates (after removal of implicit subsidies) and any below market Commission-prescribed rates, e.g., based on hypothetical forward-looking costs.

In addition, the Commission must allow market forces to determine rational pricing and must eliminate unnecessary and destructive barriers to full competition by all industry members. As explained in Section V, ILECs should be given immediate freedom to offer volume and term discounts for all access services, deaverage access charges, offer contract-based rates and customized responses to requests for proposals, and introduce new services and rate structures without delay. Services remaining under price cap regulation should be grouped in one basket with greater

service category pricing flexibility than the current rules allow. Services for which a forbearance demonstration is made under Section 10 of the Communications Act . should be promptly removed from price cap regulation.

As discussed in Section VI, if the Commission adopts GTE's blueprint for access reform, it can create a market environment that will keep rates reasonable and permit ILECs to recover their costs. In contrast, failure to permit recovery of the full amount of costs allocated to the interstate jurisdiction would violate both the Constitution and the Communications Act. Moreover, if the Commission were to conclude that there are excessive costs allocated to the interstate jurisdiction under current separations rules, it must utilize a Joint Board to correct the problem rather than simply denying recovery of the over-allocated portion. In the interim, the Commission must ensure that ILECs are permitted to recover all such interstate-allocated costs through a competitively neutral mechanism distinct from access charges.[14]

Finally, as detailed in GTE's filings in the interconnection and universal service proceedings, the Commission must reform its interconnection rules to promote economically efficient competition. It also must adopt a universal service funding mechanism that assures that ILECs are able to continue providing high quality service to all consumers throughout the United States. Taken together, these reforms will put the Commission back on track toward implementing Congress' mandate of a deregulatory, procompetitive policy framework for telecommunications.

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[14] GTE notes that Chairman Hundt intends shortly to initiate a separations reform effort. *See* "Hundt Announces First Meeting of Separations Joint Board," Communications Daily, Jan. 15, 1997, at 2.

II. THE FCC MUST RECOGNIZE THAT REGULATORY CONSTRAINTS ADOPTED PRIOR TO THE 1996 ACT NO LONGER WORK IN THE CURRENT MARKETPLACE. (*NPRM*, ¶¶ 41-49, 140-239)

A. The 1996 Act And State PUC Actions Have Opened The Local Exchange Marketplace, Thereby Creating Additional Competitive Pressures in the Access Market.

1. Legal barriers to entry have been eliminated.

The days of protected local telephone monopolies are over. Since the early 1990s, the FCC and a multitude of states have permitted switched and special access competition through expanded interconnection arrangements, and such competition has emerged across the country. The 1996 Act further dissolved the "bottleneck" by prohibiting states from imposing barriers to local competition — barriers that the majority of states already had lowered even prior to enactment. This new competitive framework effectively forecloses the ILECs' ability to exercise market power in the access market.[15]

Section 251's interconnection requirements ensure that new entrants have a variety of ways to enter the local services market in competition with existing telephone companies, including building their own facilities, reselling ILEC retail services, purchasing ILEC unbundled network elements to supplement their own facilities, or a combination of these options. The ability of new entrants to purchase unbundled network elements from ILECs at cost plus a reasonable profit[16] is a powerful tool that is

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15 47 U.S.C. § 253(a).

16 *Id.* § 251(c)(3). As noted below, the FCC and many states have ignored the (Continued...)

available now[17] in every jurisdiction in the country that is not eligible for an exemption.[18] These network elements are available to provide exchange access service, among other things, when the carrier also provides local service to the customer.[19]

Regardless of whether the FCC places restrictions on the use of unbundled network elements for interexchange access, GTE would be forced to reduce access changes in any event. Failure to do so would compromise GTE's ability to compete in the local market, since its local customers would pay more for long distance service (because the price for that service would incorporate access charges) than would customers of competitive LECs ("CLECs"). The existence and pricing of unbundled network elements will therefore constrain access pricing.

(...Continued)
Act's pricing standard by requiring ILECs to offer unbundled network elements at hypothetical costs that are far lower than actual costs.

[17] *Id.* & § 252(d)(1). While it is true that the Commission's *First Interconnection Order* has been stayed in part by the Eighth Circuit, the statutory terms are in effect and control parties' behavior.

[18] Section 251(f) provides exemptions from some interconnection obligations for certain rural and small telephone operators.

[19] The FCC has further announced that, no later than June 30, 1997, ILECs will no longer be allowed to charge the carrier common line ("CCL") charge or 75 percent of the TIC for carriers that provide exchange access services to themselves in support of their interexchange services, when they also provide local service to the long distance customer. *First Interconnection Order*, ¶¶ 721-725. Indeed, the FCC has proposed to follow this same course in this access reform proceeding. *NPRM,* ¶ 54. GTE believes that unbundled elements cannot be purchased solely as a means for an IXC to avoid paying access charges and is challenging the policy that IXCs will be able to avoid paying access charges where they use unbundled elements to provide access to themselves. GTE therefore incorporates those arguments set forth in the Brief of Petitioners in Docket No. 96-3321 (8th Cir., filed Nov. 18, 1996) ("Eighth Circuit Brief of
(Continued...)

Furthermore, the Communications Act, as revised by the 1996 Act, contains myriad safeguards to ensure that competitors can fruitfully use unbundled elements to compete with ILECs. For example, Section 251 has a number of requirements that protect competition, such as nondiscriminatory and reasonable interconnection, disclosure of network information, dialing parity, and number portability. In addition, Section 222 ensures that ILECs do not make unfair use of customer proprietary network information. These and other competition protection features of the Communications Act reinforce a competitor's ability to use network elements quickly to enter the exchange access market.

2. IXCs and CLECs have received authorizations and obtained interconnection agreements necessary to offer services to the public.

State commissions have been approving interconnection agreements and completing arbitration proceedings at a rapid pace throughout the country. As of this filing, over 34 agreements with GTE have been finally arbitrated or approved in 13 states and 200 more are in progress.[20] By the time reformed access rules are effective,

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(...Continued)
Petitioners") by reference in this proceeding.

[20] These numbers are current as of January 24, 1997. Most of these states have adopted long run incremental cost standards for determining prices of unbundled network elements, coerced to some extent by the Commission's precatory language in the *First Interconnection Order*. *See, e.g.*, Petition of AT&T Communications of Pennsylvania, Inc. for Arbitration to Establish an Interconnection Agreement with GTE North, Inc., A-310125, Opinion and Order at 16 (Pa. Pub. Util. Comm. Dec. 5, 1996); Petition of AT&T Communications of Michigan, Inc. for Arbitration to Establish Interconnection Agreement with GTE North, Inc. and GTE Systems of Michigan, Case No. U-11165, Order at 5-6 (Mich. Pub. Serv. Comm. Dec. 12, 1996).

GTE will have negotiated, arbitrated, and implemented comprehensive agreements governing all aspects of interconnection, including network element availability and pricing. Section 252(i) further gives all potential interconnectors the right to obtain promptly agreements similar to those already approved by state commissions, which eliminates any argument that deregulation must await the development of actual competition in all corners of an ILEC's study area.

Not only are these rules and agreements in place, but interconnectors are providing a wide variety of services to end users throughout the nation.[21] Many of these interconnectors, of which AT&T is a prime example, are large, well-financed companies with established telecommunications customer bases. Indeed, several CLECs, such as Sprint and MCI, are affiliated with leading international carriers that are financing their entry into the local market.[22] Other CLECs, such as MFS and Teleport, have either merged or entered venture relationships with well-established IXCs or cable companies

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[21] *See* Affidavit of Douglas Fulp, filed with Motion for Stay (filed Sept. 16 1996) ("Fulp Eighth Circuit Affidavit") (Exhibit D). In California GTE is exchanging local calling traffic with competitors on a daily basis. In the State of Washington, two competitors exchange local traffic with GTE Northwest. AT&T just announced that it is providing local service in California and 34 other states. Communications Daily, January 28, 1997, at 7; MCI also announced it is offering local telephone service in 18 cities nationwide. PRN Newswire, Jan. 22, 1997.

[22] For instance, British Telecom is authorized to own up to 35 percent of MCI shares, MCI Communications Corp., 10 FCC Rcd 8697 (Int'l. Bur. 1995). British Telecom and MCI have recently requested that this interest be increased to 100 percent, an arrangement which MCI has indicated has been entered into to finance its entry into local service markets. The Merger of MCI Communications Corp. and British Telecommunications plc, Applications and Notification, at 9-11 (filed Dec. 2, 1996).